



**Addendum to Adopted Final Mitigated Negative Declaration MST2013-00240
For the Proposed 1925 El Camino de la Luz Residence Project
[SCH#2016021035, Dated June 22, 2016, Adopted July 7, 2016]**

**Additional Responses to Public Comment and Clarifications
August 15, 2016**

Addendum Procedure. This addendum to adopted final mitigated negative declaration (FMND) for the residential project proposed at 1925 El Camino de la Luz is prepared in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15164. The Guidelines provide that an addendum to an adopted FMND may be prepared for minor changes or additions not involving new or substantially greater significant impacts or new mitigation measures. The Guidelines provide that an addendum need not be circulated for public review, but can be attached to the adopted FMND and is considered by decision-makers with the adopted FMND when considering action on the project permit application.

Background. A FMND dated June 22, 2016 for the 1925 El Camino de la Luz residence project was adopted by the Planning Commission on July 7, 2016. Included as adopted FMND Exhibit H is a summary of public comment on the draft MND and topical responses. Additional public correspondence received shortly before the July 7, 2016 Planning Commission hearing and public testimony at the hearing received staff response at the hearing and was considered by the Planning Commission. The following written responses are provided for the record as additions to Exhibit H of the adopted FMND, and minor edits to FMND text for clarification.

ADDITIONS TO FMND EXHIBIT H, SUMMARY OF COMMENTS AND RESPONSES

Further Response to Prior Comments

- 40. *Comment summary/ Views from the Ocean:*** Commenters on the draft MND raised concerns that the project would result in significant impacts to coastal views inland by boaters and kayakers traveling along the ocean.

Response: The following information is added to the adopted FMND Exhibit H topical response to comment 4: The MND concluded that the project would not result in a substantial change to scenic coastal views, including from off-shore viewpoints. However, it is also noted that case law provides that public coastal views subject to impact assessment and protective policies pertain to land-based scenic views from public parks, trails, and vista points, and do

(42. L. Wiscomb comments and responses, continued)

Response: Initial Study revisions. The MND process followed CEQA procedures. The MND comprises a cover sheet and the Initial Study. CEQA provides for a draft document with public review period, and then preparation of a final document with any revisions. A document is only recirculated for public review when there are new potentially significant impacts and mitigations are identified, not when final document revisions involve only refinements and clarifications as is the case here. The proposed final document was made available two weeks prior to the Planning Commission hearing rather than the standard one week, providing an opportunity for public review and comment, as evidenced by the commenter's letter. The environmental document was written by City staff, with the analysis supported by technical studies.

Project visibility from surrounding residences. The project development envelope was staked, and visibility from surrounding area homes was reviewed based on project plans, topography and existing development, site sections, and photos. The analysis showed that the project would not be visible from much of the neighborhood.

Bluff top location. The FMND references evidence from City archive plan files of nearby properties that identified the top of bluff at the upper tier location, and the neighbor submittals are part of the record. The FMND analysis also demonstrates that no significant physical geologic impacts would result from the project regardless of whether the bluff top location is determined at the lower or upper step (i.e., 51 foot or 127 foot elevations respectively).

Bluff face policy. Please see FMND Section 5 and MND Exhibit H topical response to comment 13. The FMND discusses that the potential project conflict associated with a bluff edge determination at the 127 foot elevation is a policy matter relevant to decision-maker action on the project permit, but does not constitute a significant environmental impact under CEQA review.

Public Comments at July 7, 2016 Planning Commission Hearing

43. J. Dorn testimony of July 7, 2016; Comment summary/CEQA document; geologic analysis:
Requested environmental impact report; requested evaluation by City geologist.

Response: MND vs. EIR. Please see FMND Exhibit H topical response to comment 21. The MND analysis demonstrates that the project as designed and with mitigation agreed to by the applicant would not result in significant environmental impacts. When this is the case, the State CEQA Guidelines direct that an MND shall be prepared. There is no substantial evidence in the record that the project may result in a significant impact. As such, under CEQA, an EIR is not required.

City geologist evaluation. Please see FMND Exhibit H topical response to comment 11, and response to comment 41 above.

44. T. Morrison testimony of July 7, 2016; Comment summary/geologic analysis: Submitted information, including geologic studies identifying upper tier top of bluff locations, and a photograph of the site's steep slope.

(45. N. Brock comments and responses, continued)

Peer evaluation; other geologic reports. Please see FMND Exhibit H response to comments 11 regarding peer review and consideration of other geologic reports, and response to comment 41 above.

46. B. Peterson testimony of July 7, 2016, *Comment summary/geologic analysis:* *Objects to applicant representative's comments about top of bluff location. Finds project inconsistency with Coastal Commission guidelines for bluff top location, and City coastal plan policy prohibiting development on the bluff face.*

Response: Please see FMND Exhibit H response to comment 13 regarding top of bluff determination and potential project inconsistency with coastal policies.

Applicant Correspondence

47. R. Monk letter of July 1, 2016.

Comment summary/coastal bluff location: *Based on the only surveyed information and consistent with adopted coastal regulations and 1997 guidelines and Coastal Commission 1984 Doolittle CDP decision, the surveyed coastal bluff edge location on the Parcel is between 48-52 feet MLLW.*

Response: Please see FMND Exhibit H response to comment 13. *Topographic survey:* Determination of bluff edge location is a qualitative judgment based on consideration of topography and application of coastal regulations and guidelines for the purpose of determining a development setback. *Controlling CCC Guidelines/criteria:* The 1997 Guidelines are not part of the City LCP nor referenced in the LCP geologic discussion or policies, and are outdated. The 2003 guidelines provide the current methodology and standard of practice employed by the Coastal Commission staff for evaluating setbacks for bluff top development to inform the Coastal Commission, local agencies, and public. The 2003 Guidelines are also adopted Appendix K of the 2011 City General Plan. *Prior CCC decisions.* The prior CDP permit issued to Doolittle for limited slope repair work following the landslide on sites 2001, 1927, and 1933 El Camino de la Luz and associated findings do not represent precedent for new development of a residence on the project site at 1925 El Camino de la Luz. The technical and staff reports for the Dolittle permit state that further analysis would be required for residential development in the area, and analysis for the current application appropriately uses the current 2003 Coastal Commission staff guidance.

Comment summary/staff determination of coastal bluff location: *The Coastal Commission staff and City staff suggestion of bluff edge location at 127 foot elevation is unsupported by topographic survey performed pursuant to the controlling criteria, any field notes, or written expert analysis of existing coastal bluff conditions in light of the controlling criteria, which does not meet the CEQA standard for substantial evidence, and would render the property unbuildable.*

Response: Please see FMND Exhibit H response to comment 13. City Planning staff and Coastal Commission staff identified the bluff as having a step-like condition, with the edge of bluff at the upper step at 127 foot elevation. This bluff edge identification was based on

(47. R. Monk comments and responses, continued)

Comment summary/prior coastal bluff edge, impact, and policy consistency decisions: *Prior Coastal Commission and City actions and findings on the Doolittle permit (4-84-17) for post-landslide grading and other work differentiated between the coastal bluff edge location and the landslide headscarp, and found the work consistent with coastal policies and having no significant environmental effects. Per Coastal Act section 30625, decisions of the Coastal Commission shall guide future actions of local governments.*

Response: *Prior decisions.* Please see FMND Exhibit H topical response to comment 13, and response above to coastal bluff location item.

Comment summary/ bluff edge location: *The location of bluff edge identified by staff at 127 foot elevation has physical conditions not consistent with a bluff edge per regulations, including earthen buttress of the wastewater trunk line trench and pipe, and remnant fill and pavement from prior residential development.*

Response: *Location of bluff edge at 127 foot elevation.* Please see FMND Exhibit H topical response to comment 13 and response above to determination of coastal bluff location item. Coastal Commission Geologist Mark Johnsson identified that the earlier bluff edge was destroyed by the landslide, and a new bluff edge established at the headscarp of the landslide.

Comment summary/project compliance: *The evidence supports the identification of the coastal bluff edge at 48-52 foot elevation, a substantial development setback and a project design addressing geologic constraints consistent with coastal bluff protection policies, such that project approval under the Coastal Act takings avoidance provisions is unnecessary.*

Response: *Project compliance.* Please see MND Exhibit H topical response to comment 13. The FMND evaluation concludes that no significant physical impacts would result regarding geologic and public safety at either a 50-foot or 127-foot elevation bluff edge determination. The final determination for location of the bluff edge and associated policy consistency determinations are a matter for decision-makers as part of their subsequent consideration of the coastal development permit application. In the event that they determine the project as proposed to be inconsistent with coastal policy, they may consider an action under the Coastal Act takings avoidance policy provisions.

Comment summary/ recommended measures: *The Emprise Trust concurred in identified DMND mitigation measures, and also concurs, with clarifications, in additional measures identified in the FMND for biology (RM B-2), construction equipment sound control (RM N-5), neighbor notification (RM N-6), lighting design (RM V-1), and drainage/storm water management (RM WQH-1), and standard archaeological resources condition for unanticipated discovery procedures. However, recommended measures pertaining to construction noise which involve construction start time, construction hours, and noise barriers do not have a nexus of an unmitigated potentially significant environmental effect, would exceed adopted Municipal Code standards, and are likely infeasible and could prevent project implementation, resulting in the City "taking" the Parcel.*

(47. R. Monk comments and responses, continued)

Comment summary/building crack survey measure (RM N-8): This measure has no basis in an identified potentially significant impact.

Response: The FMND identifies project impacts associated with construction-related vibrations to be adverse but not significant. RM-8 is not a required mitigation measure for reducing a potentially significant impact to a less than significant level; it is a recommended measure for further minimizing an adverse but less than significant impact. It was identified for decision-maker consideration based on neighbor concerns about subsurface components of the project (e.g., deep caisson installation). This measure has been applied to projects in the past when subsurface components such as underground parking are involved, or when a project is near historic structures, to support a finding of a project's consistency with City policies or other required finding for permit approval action. Decision-makers may also adjust the content and/or wording of the measure as they deem appropriate.

48. N. Dall, July 5, 2016, Comments and Requests for MND Clarifications

Comment summary/ project description: 1-Lemonade berry: the comment suggests changes to references. 2- View easement: the comment requests clarification to the reference to air space public view easement. 7-Garage: the comment notes that the correct figure for the revised garage size is 571 ft². 8- Vegetation and easements: the comments are the same as items 1 and 2 comments. 10-Geologic stability components: the comment suggests revised verbiage for describing project slope stability components. 11- Driveway width: the comment requests clarification of MND reference.

Response: 1-Lemonade berry references: please see FMND Exhibit H response to comments 9, 24, and 30. 2-View easement: The FMND description has been clarified to state that the proposed easement would be across the entire parcel. 7-Garage: the FMND project description already identifies the revised garage size as 571 SF. 8-Vegetation and easements: please see FMND Exhibit H response to comment 9, 24, and 30, and response 2 above. 10-Geologic stability components: Project geologic stability components are appropriately summarized in the Final MND written project description, with further description detail and discussion provided in the MND geologic analysis section, project plans, attachments, and referenced technical reports. 11-Driveway: the MND identifies that the project driveway augmentation would involve an additional 540 feet of pavement.

Comment summary/ MMRP: 3-The comment asserts that the MMRP attachment is missing from the MND web site.

Response: MMRP. The commenter is in error. The MND Mitigation Monitoring and Reporting (MMRP) attachment has been posted to the environmental documents web site with the MND since the MND was posted.

Comment summary/ La Mesa Park: 5-The comment notes that the project cannot be seen from La Mesa Park due to intervening homes, trees, and vegetation.

Response: La Mesa Park. Comment acknowledged.

(48. N. Dall comments and responses, continued)

Response: *19-Facilities:* the summary description of existing land use includes appropriate reference that remnant public and private infrastructure and the Mesa Trunk Line exist on the site. *29-Mesa trunk line:* the FMND description and attached maps are clear regarding the location of the Mesa Trunk line in relation to the proposed project development. *30- Homeless encampment:* the FMND summary discussion appropriately identifies that the lower portion of the site has been reported to have had unauthorized use as a homeless encampment. *31- Former access path on 1925, 1927 ECDLL:* The FMND appropriately identifies as part of the existing land use discussion that the former foot path no longer exists due to the landslide, and the referenced technical reports are already part of the FMND.

Comment summary/ neighboring land uses: *32-Bluffs and vegetation:* the comment objects to verbiage used in describing bluffs and vegetation.

Response: *32-Bluffs and vegetation:* the commenter's opinion is acknowledged. The MND summary description of characteristics of surrounding land uses appropriately references bluffs and vegetation.

Comment summary/ property characteristics: *33-Slopes:* the comment suggests revision to the reference to slope gradients. *34-Surrounding zones south:* the comment requests clarification of zoning reference.

Response: *33-Slopes:* The purpose of the referenced section of the MND is to briefly identify existing slopes on the property; not to provide a discussion of the past history of activity on the site that may have affected the topography. *34-Surrounding zones south:* The MND reference is correct. The beach area to the south of the project site presently does not have designated zoning.

Comment summary/ plans and policies: *35-Coastal Act policies:* the comment states that applicable Coastal Act policies are those in PRC sections 30210-30224, not the entire Coastal Act.

Response: *35-Coastal Act policies:* the Santa Barbara Municipal Code 28.44.150 provides the following: "In order to approve a coastal development permit, the following findings shall be made: A. The project is consistent with the policies of the California Coastal Act; ..." The MND discussion on the page subsequent to the referenced page provides initial analysis of key coastal policies in keeping with requirements of CEQA. As part of the staff report on the project CDP request, further analysis will be provided as to project consistency or inconsistency with applicable policies of the California Coastal Act.

Comment summary/ coastal policies: *36-Visual and biological resources:* the comment objects to use of the term "native vegetation" as used in the MND. *37-Coastal landforms:* the comment requests changing the MND text from "coastal landform resources" to "landforms along bluffs and cliffs". *38-Coastal hazards/bluff edge:* the comment disagrees with the MND discussion and basis of bluff edge location as pertaining to coastal policies, and requests that the discussion be deleted from the MND.

Response: *36-Visual and biological Resources:* please refer to FMND Exhibit H response to comments 9, 24, and 30 with regard to use of the term "native vegetation." *37-Coastal*

(48. *N. Dall comments and responses, continued*)

13 regarding outdated and current Coastal Commission guidelines for coastal bluff development and setbacks.

Comment summary/erosion: 47-erosion - the comment disputes the MND discussion that the project geology report analysis of long-term erosion did not factor in a setback from areas naturally meeting factor of safety criteria for slope stability.

Response: Erosion. Please refer to FMND Section 5 Geology analysis, Exhibit H response to comment 13, and project technical memo of January 5, 2016).

49. N. Dall, July 5, 2016, Proposed Mitigation Measures/Conditions

Comment summary/introduction - comment refers to new and revised mitigation measures.

Response: Introduction. Mitigation Measures identified in the MND are measures required to reduce potentially significant impacts to less than significant levels, and the applicant has agreed to incorporate these measures as part of the project. The FMND does not include new or revised Mitigation Measures. As stated in the MND, identified *Recommended Measures* are not mitigation measures required to reduce potentially significant impacts; they are actions that may further lessen adverse but not significant impacts, and may be considered and applied by decision-makers when taking action on the project as determined necessary to implement policies and/or make required findings for the permit action.

Comment summary/1-RM B-2 native vegetation and landscaping – word correction.

Response: Word correction. In the first line of the measure, the word “and” is deleted.

Comment summary/2-standard condition for archaeological resources discovery – the comment objects to application of the City standard condition for procedures in the event of unanticipated discovery of archaeological resources during earthwork for project construction.

Response: The letter dated July 5, 2016 from Richard Monk representing the applicant states that the applicant supports the standard unanticipated discovery condition for archaeological resource protection. Please refer to the FMND Section 4 analysis of project effects associated with archaeological resources. The unanticipated discovery measure is a standard condition applied per Master Environmental Assessment and ordinance procedures in areas identified as potentially sensitive for subsurface archaeological resources. The measure is consistent with and implements the City Master Environmental Assessment procedures, Coastal Act and Local Coastal Plan policies for protection of cultural resources, and the Santa Barbara Municipal Code §22.12. Standard application of the measure supports the FMND finding that no significant project impacts to important subsurface archaeological resources would result from the project.

Comment summary/2.2 design review – comment requests clarification of scope of design review.

Response: Design review. Design review approval of more detailed plans for landscaping, biological restoration, and exterior lighting would need to be found consistent with Planning Commission direction reflected by the CDP approval action.

Kennedy, Kathleen

From: Rodriguez, Julie on behalf of Community Development PC Secretary
Sent: Tuesday, July 05, 2016 8:00 AM
Cc: Gularte, Beatriz; Vincent, Scott; Kennedy, Kathleen
Subject: FW: FMND/2013-00240

Re: 1925 El Camino De la Luz

From: robert stenson [mailto:rsten63683@aol.com]
Sent: Monday, July 04, 2016 10:51 AM
To: Community Development PC Secretary
Subject: FMND/2013-00240

To: Planning Commission Secretary
Re: FMND rearding MST2013-00240

1) Was the geologic firm (Cotton, Shires, and Associates) involved in assessing the geology, surface stability, or build-ability of the site under consideration retained by the City of Santa Barbara or was the firm retained by the developer?

In the past there were indications that the City would be the one to retain geologic services in order to remove any hint of bias engendered by having the developer retain such services. Was that indeed the fact?

2} It is in the nature of proposals to deal in future events. As such certainty is ruled out while probability, judgement(subjective), and chance enters. Thru-out this report conditional terms such as "would"

are used rather than the definitive term "will" as in ".... and tie backs **would** improve stability of the site,,,". (P25, pp2)

There is no way for a lay person to understand the risks associated with construction on an inherently unstable slope requiring artificial stability measures to stabilize.

Printed resurances are one thing but numbers representing stability, the improvement thereof and the +/- uncertainty of such numbers are another. If one cannot give an estimate of the chance of slope slippage

without ties how is one to understand the "improvement" in chance of slippage with ties?

Also noted in the "Short-term construction impacts" (P25, pp2) is the relatively modest assurance given to surrounding properties. It is these properties, constructed years to decades in the past, that will bear the brunt of earth movement, vibration, drilling etc. it is entirely unclear how far stabilization techniques extend into surrounding properties.

The subjective nature of the risk assessment is highlighted by the statement "Short-term project impacts associated with slope stability, landslide, and erosion would be mitigated to a less than significant level." (P25, pp3)

How is anyone supposed to objectively judge less than significant or more than significant or just significant. It should also be noted that categorizing what is less than significant or more than significant depends not just on technical expertise but also on how much skin in the game the observer has.

So what might be less than significant to a plane designer in Seattle may very well be more than significant to the pilot of the plane or a passenger therein.

06 July 2016

To: City of Santa Barbara Planning Commission
Re: 1925 El Camino de la Luz Mitigated Negative Declaration (MND)

Dear Planning Commissioners,

We reside across the street from the proposed project at 1925 El Camino de la Luz. We firmly believe that an EIR should be required for the project and make the following comments to support our belief:

1. Our understanding is that the text for the "Initial Study" is to be completed before public hearings (initial hearing held in March) but applicant's initial study has since been revised (in late June) from 37 pages to 59 pages with no opportunity for public comment. This appears to be an inappropriate procedure that justifies a violation of CEQA.

We are also concerned by the fact that the applicant's extensive revisions to their initial study, submitted on June 22, 2016, and the current Staff Report are now being used as the basis for determining there is no significant environmental impact. This "revised" initial study and current staff report should not be used to determine that only a less rigorous MND is required, rather than an EIR, because the statements in the revised study were written by the applicant and no public comment period was offered.

2. The applicant was not required to install story poles to the proposed height (only building footprint) of the proposed development. Three neighbors, all directly across from 1925 ECdLL, were required to hire surveyors and install story poles to the proposed heights of our respective developments as a condition of seeking permits. Without this information, how is it possible to make the Staff's determination that: *"Portions of the residence would be partially visible from some residences in the surrounding area but not from a large portion of the neighborhood... The project would not result in a significant impact on private views."*
3. Staff's Report states that *"...no substantial evidence was presented in any of the letters, or in any of the public testimony that, with the identified mitigation measures agreed-to by the applicant, the project would have a significant effect on the environment. As stated in the CEQA Guidelines section referenced below, the existence of public controversy without substantial evidence does not require preparation of an EIR."*

We refer you to the bluff-side residents on ECdLL who brought property deeds to the last meeting that clearly illustrated "top of bluff" on their respective properties with development restrictions therein. It seems this constitutes substantial evidence and *"Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts."*

4. Last, but certainly not least, is determination for the top/face of bluff. Staff states that *"With the exception of drainage systems identified in Policy 8.1, no development shall be permitted on the bluff face except for engineered staircases or accessways to provide public beach access and pipelines for scientific research or coastal dependent industry..."* *"In order to determine whether*



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**CITY OF SANTA BARBARA
PLANNING DIVISION**

July 1, 2016

BY ELECTRONIC MAIL AND HAND DELIVERY

Hon. John Campanella and Members
City of Santa Barbara Planning Commission
630 Garden Street
Santa Barbara, California 93101
Attn.: Ms. Kathleen Kennedy

**Re: 1925 EL CAMINO DE LA LUZ PROJECT MND -- FURTHER
RESPONSE TO PLANNING COMMISSIONER
COMMENTS/QUESTIONS OF MARCH 3, 2016**

HEARING DATE: THURSDAY, JULY 7, 2016

Dear Mr. Chairman and Commissioners:

We represent the Emprise Trust (Thomas Felkay, Trustee), the applicant for the single-family residential reuse and site restoration project, with its accompanying substantial public benefits, at 1925 El Camino de la Luz ("ECDLL", APN 045-100-024, the "Parcel").¹ Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND, June 22, 2016) for the project, which Staff has recommended for approval.

We concur with Staff's comprehensive analysis in the MND that the project, with its incorporated and agreed-upon mitigations, has no potentially significant individual or cumulative adverse environmental effect(s) generally or, for that matter, on coastal resources.

As further discussed below, the project has now been reduced in size and otherwise enhanced in response to questions/comments raised by your Commission and City

¹ The Parcel is located in the California coastal zone, where the Coastal Act, adopted Coastal Commission regulations, and certified City Local Coastal program (LCP) control over conflicting other City-adopted plans, ordinances, and resolutions (e.g., for adoption of guidelines or similar devices). (Public Resources Code [PRC] section 30103; Coastal Commission-adopted City of Santa Barbara Post-LCP Certification Permit and Appeal Jurisdiction Map, July 17, 1991; LCP Policy 1.3 and Municipal Code section 28.44.030.) To avoid any confusion, the Emprise Trust owns only one other parcel in the City, which is located inland of the coastal zone.

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(1916-1988)
GLENN R. WATSON
(1917-2010)
HARRY L. GERSHON
(1922-2007)

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tree lines, topography), as seen from the lower beach and Santa Barbara Channel, has been both photo-simulated (ABDS Sheet G.04, June, 2016) and is shown in scaled (1:50) section view (profile) up to one mile offshore, looking landward. (ABDS, Extended Site Sections, Sheet A0.04-B, June, 2016. ABDS will deliver electronic and 12 printed copies of these Sections to Ms. Kennedy on Tuesday morning.) No deed restriction burdens the Parcel. (Fidelity National Title Insurance Company, Preliminary Title Report, 1925 ECDLL, 2015.

In coordination with Staff, the on-site stormwater management water storage tank (WST) 3 has been redesigned to consist of two separate tanks, with provision that water in the seasonal lap pool component will be beneficially reused on site and not be discharged under any circumstance to the City storm drain. Other retained stormwater will continue to be available to beneficial reuse by the City Fire Department and Public Works Department via a dry stand pipe at the head of the driveway, adjacent to ECDLL. (ABDS, Sheets A0.03 and A0.04, June, 2016.)

The temporary construction access and storage easement area on 1921 ECDLL has been clarified to maintain the existing screening mature horticultural vegetation along the existing retaining walls/property line fences to the north and east (as well as the other tall vegetation to the South). Horticultural vegetation within the area will be replanted in place and kind following completion of construction. Earthen material from the temporary ramp at the base of the 1921 ECDLL driveway will be reused on 1925 ECDLL as part of balanced on-site (landscape restoration) grading. (ABDS, Sheet A0.01, June, 2016.) Construction equipment travel along the 1921 ECDLL driveway (to which 1919 ECDLL has a non-exclusive ingress/egress easement) and along the joint (reciprocal easement) 1925-1927 ECDLL driveway will be coordinated with the neighbors; the easement granted by the Luz Trust, owner of 1921 ECDLL, requires repair of any damage to that driveway, and the project proposes new pavement on 1925 ECDLL, also in coordination with the neighbors at 1927 ECDLL.

2. Coastal Bluff Location. It is important to understand that geologist/geotechnical engineer-surveyors at Cotton, Shires & Associates have conducted the only topographical survey of the coastal bluff location and its upper termination (bluff edge) on the Parcel and the adjacent area, pursuant to controlling criteria in Section 13577(h) of the Coastal Commission's adopted regulations (Tit. 14, Cal. Code Regs.) and the Coastal Commission's adopted "Guidelines for the Geologic Stability of

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shall be taken to be the cliff edge.” The regulation does not define the term “step-like feature at the top of the cliff face,” but the Coastal Commission’s Guidelines for the “Geologic Stability of Blufftop Development,” which are incorporated in the City’s LCP, exemplifies the geometry of such a feature. Those Guidelines require that any step-like feature have a minimum vertical height of ten (10) feet. (Guidelines, p. 2.) This is never addressed by the Coastal Commission’s staff or City Staff. It is, however, uncontroverted that the coastal bluff at 1925 ECDLL does not extend landward (upslope) through rounding associated with marine erosion, stepping, or the presence of a nearby minimum 10 feet vertical height escarpment. (CSA, 2012, 2015; GeoSoils, 2012, 2015; Scepan, 2012; D&A, 2015; Monk and Kaufmann, 2015.) In other words, there is no evidence of a step-like feature, as defined in the controlling criteria, on the Parcel.

Further, Section 13577(h)(2) of the Commission’s regulations also provides that “[f]ive hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.” Even if the remaining landslide headscarp were somehow deemed to be a step-like feature or upper riser (which the Coastal Commission in CDP 4-84-17 determined it is not), the headscarp east of 1927 ECDLL has a length substantially less than the minimum 500 feet required by the coastal bluff regulation – 297 feet long when measured on the upper headscarp line, or 103 feet long when measured in an east-west horizontal dimension (CSA, 2012).

In response to the MND, the Coastal Commission staff analyst’s May 2, 2016 email asserts that the five hundred foot requirement applies only in a limited instance – only to determine the intersection of a seaward-facing and canyon/perpendicular bluff. As support, the analyst provides a partial and incomplete quote of Section 13577(h) and a graphic. The plain construction of the 500 foot requirement (as well as the trend line illustration in the graphic) demonstrates that the minimum 500 feet length necessarily applies to each of the coastal bluff determination criteria set forth in section 13577(h). Section 13577(h)(2) provides in relevant part (we have underscored the only portion selectively quoted by the Commission analyst):

“Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or

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Finally, the Coastal Commission staff's erroneous coastal bluff edge at "127 feet" on the parcel is, depending on the datum, on the locally runoff eroded City-constructed (1978) earthen buttress of the Mesa Trunk Line Sewer trench and pipe, the relict concrete pavement edge and inches-thin overlying artificial fill at the base of the 1925 ECDLL driveway, turnaround, and former house entry, or in voids (air space) below that concrete pavement. These existing conditions simply do not, and cannot, constitute a coastal bluff edge pursuant to the controlling criteria, which the Emprise Trust has previously addressed in our March 30, 2016 letter to Staff on the MND.

3. Supplemental Project Site Analysis. In response to City staff inquiries, CSA (2015, 2016) has further analyzed and described the enhanced slope Factor of Safety (under static and seismic conditions) provided through the proposed project in-bedrock shear-pins, tiebacks, and comprehensive storm/ground water management system. These substantial Factor of Safety improvements provide not only the stable basis for the proposed house and appurtenances, consistent with City Municipal Code environmental construction requirements, but, importantly, also greatly benefit the stability of City infrastructure, the downslope landform affected by the 1978 ECDLL landslide, and adjacent upslope parcels with existing developed uses. In response to Planning Commission, Single Family Design Board, and City staff inquiries, ABDS (June, 2016) has reduced the bulk, tiered height, and added potential associated visual effects of the proposed house through a series of incorporated mitigations. As a result, Staff correctly concludes that the house will not have a significant adverse impact on public views from the low tide beach and Santa Barbara Channel, looking landward, or from ECDLL, looking toward the Channel and Santa Cruz Island. No beach or nearshore white water views exist under any conditions from ECDLL (or any other public view origination point) across the Parcel.

4. Project Compliance. Because the factual, criteria-based, and coastal program-consistent surveyed coastal bluff/edge location on the Parcel is at elevations 48-52 feet MLLW, and not at 127 feet (in any datum), the location of the proposed house a minimum of 169 feet landward of the coastal bluff edge is fully consistent with the coastal bluff protection requirement of City Local Coastal Plan Policy 8.2. Reliance on the Coastal Act takings avoidance provision (PRC section 30010), which the Coastal Commission has utilized in numerous other CDP regulatory actions, is therefore unnecessary. Similarly, the project by design, on site-specific analysis in the project technical studies, is fully consistent with the requirement of the Coastal

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increased costs. Construction is already generally precluded by the Municipal Code (Title 9, Noise Ordinance) on weekends, holidays, and certain subsequent days, and the construction easement area is already buffered along its north and east sides with mature tall horticultural vegetation and retaining walls, with continuous closed fencing on top of them. Further, the side yards at 1909 and 1919 ECDLL result in the houses some 30-140 feet and 45-170 feet, respectively, from the temporary construction access and storage easement area (i.e., no construction equipment will be operating or be parked beneath, or next to, any room, window, or patio at either house. As proposed, the project complies with the adopted Municipal Code. This changed requirement, however, would amount to a de facto amendment of the Code, would treat this application different from other single-family residential applications, and is unsupported by any evidence.

(b) Stationary Construction Equipment. RM N-7 (MND page 35/59) would require that undefined "stationary construction equipment" be shielded (STC rating 25) to prevent noise generation at the "property boundary" from exceeding 50 dBA. The mobile drilling rig required for bore hole excavation to facilitate construction of the shear-pins and house foundation caissons necessary to meet Factor of Safety standards cannot feasibly be retrofitted to meet that 50 dBA standard, which exceeds the adopted Municipal Code noise standard. Consequently, imposition of this recommended noise standard on the drilling rig would preclude implementation of the project, resulting in a "taking" of the Parcel. To address this concern, stationary equipment (e.g., compressor/s, generator/s) can be located and shielded to meet City standards, and the applicant would accept such a requirement.

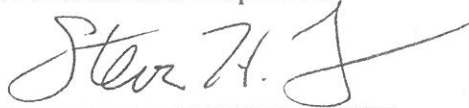
(c) Video Crack Survey. RM-8 (MND page 35/59) would require the Emprise Trust to notify neighbors of pre- and post-construction video recording of existing fractures (cracks) in "buildings and other structures" within 300 feet of the project site, and additionally to compensate "any neighbors for repair of cracks caused by the construction process." This particular mitigation has no basis in any identified potentially significant project adverse environmental effect. Further, it is vague, extremely intrusive of the neighbors' house interiors, foundations, and other structures, and likely incapable of pre-construction implementation. It also would require the Emprise Trust to be liable, without limit or specification of civil procedure, for repair of cracks asserted to be caused by construction activities. While we emphasize that there is no evidence that this is a problem with the proposed project, this mitigation measure could put the City in the middle of neighbor

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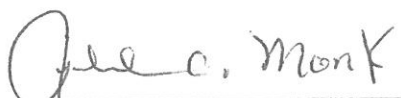
Thank you for your consideration, and we look forward to discussing the MND further with you at the July 7, 2016 hearing.

Very truly yours,

Richards, Watson & Gershon,
A Professional Corporation

By: 
Steven H. Kaufmann

Hollister & Brace,
A Professional Corporation

By: 
Richard C. Monk

cc: T. Felkay
Planning Commission Secretary
Ariel Pierre Calonne Esq., City Attorney
Scott Vincent, Esq., Deputy City Attorney
Barbara R. Shelton, Environmental Analyst
Kathleen Kennedy, Associate Planner
Clay Aurell, AB Design Studio
Patrick Shires, Cotton, Shires & Associates
Norbert and Stevie Dall, Dall & Associates

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Note: All references herein are to the electronic pagination (pp. 1-59 of 59) of the City staff-proposed final Mitigated Negative Declaration in markup format (June 22, 2016, the "MND"), posted to the City's environmental documents web site at <http://www.santa-barbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=172746> (last accessed on February 2, 2016).

1. Project Description, Page 1/59, Lines 10-11: The MND representation that the project offers to dedicate "an open space easement on the undeveloped portion of the property, including areas of native species lemonade berry vegetation" is factually incorrect and unsupported by any substantial evidence in the MND record as a whole. The proposed open space easement (ABDS, Site Plan, Sheet A0.03, June, 2016), consists of two areas: (a) the surveyed coastal bluff, between elevations 10-52 feet MLLW (CSA, 2012; verified, 2015), and (b) the matured contiguous monoculture of horticultural lemonade berry shrubs, which the City co-activated 1978 ECDLL landslide repositioned from (primarily) 1927 ECDLL to 1925 ECDLL, and post-landslide grading by the City (1978) and Doolittle (1984) further repositioned and concentrated, including through hydromodification, on 1925 ECDLL. (CSA, 2012, 2015; WRA, 2012, 2015; D&A, 2013, 2015.) Such grading, hydromodification, and landscaping constitutes development of the parcel, which is located in the California coastal zone. (See, PRC section 30106; SBMC section 22.44.040.H; CDP 4-84-17 (Doolittle).) The MND record as a whole contains no substantial evidence whatsoever that the extant lemonade berry shrubs on 1925 ECDLL consist of "native species lemonade berry vegetation". The Emprise Trust thereon requests that the reference be clarified accordingly.

2. Project Description, Page 1/59, Lines 12-13: The MND representation that the project offers to dedicate "an air space public view corridor easement from El Camino de la Luz over the top of the residence toward the Santa Barbara Channel and Santa Cruz Island" is factually incomplete, in that the proposed air space open space easement extends across the entire parcel, and is not limited to the air space above the residence. (ABDS, Site Plan, Sheet A0.03, and Site Sections, Sheet A0.04, June, 2016.) The MND record as a whole contains no substantial evidence to support the incomplete representation in the MND. The Emprise Trust thereon requests that the reference be clarified accordingly.

3. Attachments: Mitigation Monitoring and Reporting Program ("MMRP"), 02-04-16, Revised June 22, 2016), Page 1/59, Line 2: This MMRP, required by PRC section 21081.6, is listed as an attachment to the MND, but omitted from the MND posted by the City to its environmental documents web site. The Emprise Trust requests City staff to attach the revised MMRP to the MND posted to the City web site, and produce a copy thereof to the Emprise Trust.

4. Initial Study/Environmental Checklist, Page 3/59, Paragraph 3, Lines 2-3: The

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pins (to a minimum depth of 40 feet in bedrock), tiebacks (lower shear pin row), and comprehensive surface/subsurface water management, with beneficial effects on adjacent areas that include the City MTLs and developed private parcels. (CSA, 2012, 2015, 2016; C. L. Grant, 2013; ABDS, Project Plan Set, 2016.) The proposed deep caisson and grade beam foundation of the house (CSA, 2012, 2015, 2016; C. L. Grant, 2013; ABDS, Project Plan Set, 2016) additionally contributes to the stability of the site and area. (CSA, 2015.) Please clarify the MND accordingly.

11. Project Description-Site Preparation and Construction Process, Page 4/59, Paragraph 6, Line 6: To meet the City's minimum 16-foot driveway width, the project proposes to augment the existing driveway pavement on 1925 ECDLL by an addition ____ ft², rather than 540 ft². (ABDS, Site Plan, Sheet A0.03, June, 2016.) Please clarify the MND accordingly.

12. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 1, Lines 1-2: Substantial evidence in the MND record as a whole indicates that the project parcel's south property line is along the Mean High Tide Line of the Santa Barbara Channel of the Pacific Ocean, a location that provides for the long term protection of the parcel against direct attack by open Pacific Ocean waves, and hence the persistent long term location of the coastal bluff at this location. (GeoSoils, 2012.) The MND record as a whole contains no substantial evidence to support staff's contention that "the property ... incorporates a coastal sea cliff *and* bluff" (emphasis added). Rather, the only topographic survey of the site (conducted pursuant to the controlling criteria at 14 CCR 13577(h), informed by the Geologic Stability of Blufftop Development Guideline, and congruent with Coastal Commission's established coastal bluff trend line based on its differentiation of the coastal bluff and the 1978 ECDLL landslide (CDP 4-84-17, Doolittle)) identifies the coastal bluff on the parcel to extent between 10 feet and 52 feet MLLW. (CSA, 2012; verified, 2015.) There is no substantial evidence in the MND that locates a "coastal sea cliff" on the parcel pursuant to the controlling criteria, and none exists. Please clarify the MND accordingly.

13. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 3, Line 5: The reference to "coast" in this context is unnecessarily vague and unsupported by substantial evidence in the MND record as a whole. The correct reference is to the "south property line along the Mean High Tide Line of the Santa Barbara Channel." (GeoSoils, 2012.) Please clarify the MND accordingly.

14. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 3, Lines 6-7: The substantial evidence in the MND record as a whole locates the proposed residence between 97.6 feet (not 80 feet) MLLW and 129.5 feet MLLW, a minimum of 169 feet upslope from the surveyed coastal bluff edge (upper termination, not the "lower cliff location". (ABDS, Site Sections, Sheet A0.04, June,

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Paragraph 9. Line 2: The characterization that “some landslide debris remains on the site” is vague, whereas substantial evidence in the MND record characterizes it as landslide structural debris buried by the City (1978). (CSA, 2012, 2015; D&A, 2013, 2015.) Please clarify the MND accordingly.

19. Existing Land Use, Page 5/59, Paragraph 12, Lines 2-5: Substantial evidence in the MND record indicates that, in addition to the development listed, the parcel is also developed with the City’s (1978) Mesa Trunk Line Sewer earthen buttress, drainage facilities initially installed by the City (1978) that serve 1927 ECDLL and 1929 ECDLL, as well as part of the joint 1925-1927 ECDLL driveway, relict concrete house entry and carport turn around pavement with a thin artificial fill layer at elevation 130 feet MLLW (near elevation 127 feet MSL), matured City- (1978) and Doolittle- (1984) planted (repositioned) horticultural lemonade berry shrubs, and other horticultural lemonade berry shrubs planted by unknown third parties for erosion control. (CSA, 2012, 2015; D&A, 2013, 2015; WRA, 2012, 2015.) Please clarify the MND accordingly.

29. Existing Land Use, Page 5/59, Paragraph 12, Lines 4-5: The characterization in the MND of the existing MTLS “wastewater line” as crossing the site “above” the proposed residence location constitutes overstatement. Substantial evidence in the MND indicates that the invert elevation of the MTLS pipe, at/near 111 feet Santa Barbara Datum (minus 6 feet MSL),

30. Existing Land Use, Page 5/59, Paragraph 12, Lines 6-7: The characterization in the MND of a homeless encampment on the “lower portion of the site”, “accessed from the coast”, is vague and in part inaccurate. Substantial evidence in the MND record indicates that an unauthorized (trespass) recent homeless encampment in the contiguous horticultural lemonade berry vegetation in the biological Study Area has been accessed from the beach along the surveyed coastal bluff face, including on 1925 ECDLL. (D&A, 2015; WRA, 2012, 2015.) Please clarify the MND accordingly.

31. Existing Land Use, Page 6/59, Paragraph 1, Lines 8-9: The characterization in the MND of the reason for the loss of the pre-1978 ECDLL landslide coastal bluff access path on 1925 ECDLL (and adjacent 1927 ECDLL) between the coastal bluff top and the beach is incomplete. Substantial evidence in the MND record indicates that this path was destroyed in part by the southerly distension of earthen material up to 83 feet across the beach plane by the 1978 ECDLL landslide, and subsequently eroded by post-1978 ECDLL landslide marine erosion of this material. (GeoSoils, 2012; Scean, 2012; D&A, 2013, 2015.) Please clarify the MND accordingly.

32. Neighboring Land Uses and Characteristics, Page 6/59, Paragraph 3, Lines 1-2: The characterization in the MND of “vegetated” coastal bluffs “sloping down to the beach and ocean” south of the line of residences on the seaward side of ECDLL is in

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35. Plans and Policy Discussion, Page 6/59, Paragraph 7, Lines 2-4: Substantial evidence in the MND record indicates that the applicable Coastal Act conservation and development standards of review for the project consist of PRC sections 30210-30224 and 30253, rather than the entire Coastal Act (Chapter 3). (D&A, 2013, 2015.) Please clarify the MND accordingly.

36. Coastal Policies-Visual and Biological Resources, Page 7/59, Paragraph 2, Line 10: The MND record contains no substantial evidence that “two-thirds” of the parcel is, or would on project completion be or remain, in “native vegetation”. Rather, the site-specific biological analysis indicates that native vegetation occurs on parts of the surveyed coastal bluff and on the immediately adjacent coastal bluff top near the 1925-1927 ECDLL property line. (WRA, 2012, 2015.) Please clarify the MND accordingly.

37. Coastal Policies-Coastal Hazards, Page 7/59, Paragraph 3, Line 5: PRC section 30253 requires the proposed project to have no significant adverse impact on “natural landforms along bluffs and cliffs”, rather than “coastal landform resources.” (DA, 2013, 2015.) Please clarify the MND accordingly.

38. Coastal Policies-Coastal Hazards, Page 7/59, Paragraph 4, Lines 1-7: There is no substantial evidence in the MND record as a whole to support staff’s speculation about a potential coastal bluff edge at (an unspecified datum) 127 foot elevation. In fact, such elevation on the parcel consists of concrete decking (in MLLW), voids (interstices below the concrete decking) and the rilling-eroded City (1978) constructed earthen buttress for the MTLS trench and pipe (MSL and Santa Barbara Datum), which pursuant to the controlling criteria geomorphological and dimensional criteria do not – and cannot – constitute an “upper bluff edge determination”. (CSA, 2012 [see, Figure 2, Topographic Section A-A’], 2015, 2016; GeoSoils, 2015 [see, Exhibit D]; D&A, 2013, 2015; Monk and Kaufmann, 2015.) Moreover, the controlling criteria at 14 CCR 13577(h) and in the Geologic Stability of Blufftop Development Guideline, both incorporated by the City in its General Plan and LCP, respectively, set forth specific geomorphological and dimensional standards for determination of the coastal bluff edge location through careful on site- and area-specific field work, rather than on “belief”, as City staff described its and Coastal Commission staff’s unverifiable and inapplicable methodology. (PRT Letter, 2013.) Coastal Commission staff’s emailed further characterization of its methodology simply corroborates that it can produce none of the required geomorphological or dimensional technical analysis and mapping to support a coastal bluff edge at 127 feet elevation (under any datum) on the parcel. (Email from M. Sinkula, Coastal Program Analyst I, to L. Kennedy, May 2, 2016, 2 pp.) In direct contrast, CSA (2012, 2015) surveyed, mapped, and verified the coastal bluff edge on the parcel based on the controlling criteria (CSA, 2012, 2015, 2016), and the 48-52 feet MLLW elevation of that bluff line is congruent with the coastal bluff trend line

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substantial evidence that the 1978 ECDLL landslide-impacted terrain between elevations 48-50 feet MLLW and the southerly edge of City (1978) post-landslide grading constitutes, or pursuant to the controlling coastal bluff determination criteria can constitute "lower portions of the coastal cliffs slopes in the project area (that) contain open space with native vegetation that provides a migratory corridor for birds and other wildlife species." (WRA, 2012, 2015.) Please clarify the MND accordingly.

44. Existing Site Conditions, Page 25/59, Paragraph 2, Line 5: There is no substantial evidence in the MND record that "the geologic landforms and soils on the property [parcel] are generally unstable". (See, CSA, 2012, 2015, 2016.) Please clarify the MND accordingly.

45. Project long term impacts, Page 25/59, Paragraph 3, Lines 2-3: There is no substantial evidence in the MND record that a "lower sea cliff" is located at 51 feet elevation. Rather, the surveyed coastal bluff, pursuant to the controlling determination criteria, extends between elevations 10 and 52 feet MLLW on the parcel, and there is no other escarpment on the parcel that constitutes a coastal bluff pursuant to any of the criteria in either 14 CCR 13577 or the Geologic Stability of Blufftop Development Guideline. (CSA, 2012, 2015; GeoSoils, 2015; D&A, 2013, 2015; Monk and Kaufmann, 2015.) Please clarify the MND accordingly.

46. Project long term impacts, Page 25/59, Paragraph 5, Lines 1-3: For completeness and accuracy, the first sentence should read: "However, the proposed development site does not meet the minimum stability factors of safety (1.5 static and 1.1 seismic) for development without slope stability measures per industry standards, incorporated into the certified LCP through the Geologic Stability of Blufftop Development Guideline, set forth in the Municipal Code (Title 22), and further incorporated into the General Plan (2014) by the Coastal Commission staff geologist's 2003 conference paper/memorandum." Please clarify the MND accordingly.

47. Long term erosion, Page 26/59, Paragraph 2, Lines 6-11: The MND errs in its statement that "The analysis submitted by the applicant of long-term erosion at the lower bluff location at 51 feet in elevation does not factor in a setback from areas naturally meeting factor of safety criteria for slope stability purposes pursuant to the current Coastal Commission geologist analytic guidelines...." The CSA supplemental memorandum of January 5, 2016, in response to City staff inquiries, at pp. 1-6 specifically addresses this point (without acquiescing in staff's "lower bluff location" characterization), and demonstrates that the proposed house is adequately set back also from extant FS contours that meet the applicable standards. As a result of the City co-activated 1978 ECDLL landslide and subsequent grading, there are no extant "natural slope areas" on the parcel between elevations 48-50 feet and 130 feet MLLW. Please clarify the MND accordingly.

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City staff has proposed nine new or revised mitigation measures in the Draft final MND (pfMND, June 22, 2016). This memorandum addresses each of the new/revised mitigation measures. The Emprise Trust requests the opportunity to discuss the comments below with City staff prior to the Planning Commission hearing.

1. Recommended Mitigation Measure: RM B-2 Native Vegetation and Landscaping. (pfMND electronic page 21/59)

Final project plans approved by the Single Family Design Board and [omitted word/s] shall include project components to implement measures identified by project biologist reports for restoring native species vegetation following project construction and providing compatible landscaping. Final restoration and landscape plans will incorporate biologist-recommended measures for plant species, locations and timing for planting vegetation; local source for native plant species; erosion control, initial irrigation, and other establishment measures; performance criteria; and monitoring and demonstration of establishment success (two years for private open space and lemonade berry mitigation; five years for coastal bluff scrub) with final measures approved by the City prior to issuance of grading and building and occupancy permits.

1.1. In Line 1, after "Single Family Design Board and", one or more words are missing.

2. Recommended Standard Condition. (pfMND electronic pages 22-23/59)

There is no evidence of subsurface historical resources based on prior development activities and numerous technical site evaluations conducted on the property. The standard condition for procedures in the event of unanticipated discovery of important subsurface resources would be applied as a condition of project approval to assure that any resources discovered are evaluated and, as needed, mitigation applied such that no significant impact would result (see Exhibit C). ... Based on prior development activities and numerous technical site evaluations conducted on the property, there is no evidence that the site contains any subsurface human remains. Standard conditions of approval for the project would include required procedures per State regulations for the unanticipated discovery of human remains to assure that no significant impact would result (see Exhibit C). ... The area to be disturbed for the project has been previously disturbed by the prior residential development, landslide, and slope stabilization work. Based on prior development activities and numerous technical site evaluations conducted on the property, there is no evidence that the site contains any unique paleontological resources. The standard condition for procedures in the event of unanticipated discovery of important resources during project earthwork would be applied to this project to assure that any resources discovered are evaluated and, as needed, mitigation applied such that no significant impact would result (see Exhibit C).

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SFDB is to (a) review and approve the Planning Commission's precedent action on the MND, regarding the project landscape plan, biological restoration, and exterior lighting, or (b) incorporate the Planning Commission's action on the MND with regard to these components into the SFDB decision. Please clarify.

2.3. Please clarify the requirement that "The CDFW fee shall be paid by the owner immediately upon project approval", specifically with regard to the terms (a) "immediately", and (b) "project approval" in relation to staff's proposed timing of City Planning Commission action on the CDP 60 days after action on the MND, with provision that it is appealable.

2.4. The Design Review "standard" biological resources design review condition, as stated, is also unclear as to what City-adopted standards, if any, the SFDB may require the project to implement (document) establishment of planted new vegetation, and whether the latter term includes establishment of proposed in-situ horticultural vegetation mitigation. Please clarify the relevant adopted standards for the SFDB biological resources design review standards.

2.5. Please (a) also provide us with, and include as part of the MND, a copy of the relevant adopted standards for City determination of "a qualified biologist acceptable to City", and (b) clarify whether this "standard" condition is precedent or subsequent to City issuance of (or action on) the CDP.

3. RM N-4, Construction Hours Limitations. (dfMND at electronic page 35/59)

*Requirements in mitigation measure N-1 are superseded by the following provisions: All construction activities shall be prohibited on weekends and shall be permitted only on weekdays between the hours of 8:30 a.m. and 4:00, with the exception of ten specified holidays when construction activities shall also be prohibited: New Year's Day (January 1st); Martin Luther King Jr Day (3rd Monday in January); President's Day (3rd Monday in February); Memorial Day (Last Monday in May); Independence Day (July 4th); Labor Day (1st Monday in September); Thanksgiving Day (4th Thursday in November); Day Following Thanksgiving Day (Friday following Thanksgiving); Christmas Day (December 25th). *When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday.*

3.1. Given that the City has adopted generally applicable limitations on hours of construction (to erect, construct, demolish, excavate for, alter or repair any building or structure) in SBMC Section 9.16.040 (Noise Ordinance), which prohibit construction at night, between the hours of 8 pm and 7 am, please clarify what site-specific noise

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5. RM N-6, Neighbor Notification. (dfMND at electronic page 35/59)

Requirements in mitigation measure N-3 are augmented as follows: Additional notification of neighbors within 300 feet of the project area shall be provided one week prior to a changed construction schedule. A sign (with minimum font size of 0.5 inch) with the information required by mitigation measure N-1 shall be posted at the point of entry to the site immediately upon building permit issuance and upon any subsequent update notifications.

N-3: Neighborhood Notification Prior to Construction. At least twenty (20) days prior to commencement of the project construction process, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) and Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.

5.1. In Mitigation Measure N-3, the term “project construction process” is vague, and to be able to be implemented should be clarified as “project construction, commencing with demolition, grading, preparation of the construction storage area, or construction of any permanent structure on 1925 ECDLL or the driveway widening area in the driveway easement on the westerly 1921 ECDLL side yard, whichever comes first.”

5.2. In Mitigation Measure N-3, the reference to “businesses” is vague, and to be able to be implemented should be clarified as “businesses that are reasonably known through on-site signage, listing on the mail box, or licensed to operate on a developed parcel in private ownership within 300 feet of the perimeter of the parcel at 1925 ECDLL”.

5.3. In Mitigation Measure N-6, the reference to “neighbors” is vague, and to be implementable should be clarified as “property owners and known residents, as indicated by names on the mail box of each house”.

6. RM N-7, Construction Noise Barriers. (dfMND at electronic page 35/59)

Stationary construction equipment that generates noise exceeding 50 dBA at the property boundary shall be shielded with a barrier that meets a sound transmission class (STC) rating of 25. Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters.

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buildings or other surface and subsurface structures, but irrespective of any methodology to establish liability, would require the Emprise Trust to compensate any neighbors, without limit, for repair of cracks, without limit, identified by a second round of inspection and video-taping and in some undescribed manner considered to be caused by the construction process. Discussions by Emprise Trust project team members with adjoining neighbors at 1917, 1919, and 1927 ECDLL in 2011 identified no observed vibrations or cracking during, or as a result of, City grading equipment transit in 1978 along the 1921 ECDLL driveway and operations on both 1921 and 1925 ECDLL; Doolittle's grading equipment transit in 1984 along the 1921 ECDLL driveway and on 1927, 1933, 1933, and 1937 ECDLL; a neighbor's subsurface geological/geotechnical investigation borings in 2006; Padres' subsurface geological/geotechnical investigation borings on 1921 CDLL; or CSA's large and small diameter subsurface geological/geotechnical investigation borings in the side yards between 1921 ECDLL and 1925 ECDLL, as well as at seven other locations on these latter parcels.

7.4. The staff-recommended mitigation measure is vague, unavoidably intrusive, and infeasible, given (a) the undefined key terms ("construction processes", "other structures", "any neighbors", "cracks caused by the construction process"), (b) the previously demonstrated unwillingness of many of the same property owners to allow review of merely their respective building foundation and construction plans on file with the City, and (c) imposition on the Emprise Trust of financial liability for cracks without first establishing a methodology for determining whether any cracks, if they could be found to exist, were in fact caused by any construction activity. A civil process exists to address such issues, should any cracks be shown to have been caused by construction at 1925 ECDLL, rather than others factors.

7.5. Moreover, the staff-recommended mitigation measure is unnecessary because the project has already incorporated (a) impact avoidance measures through proposed placement and monitoring of appropriately calibrated construction seismometers at the perimeter of the construction site, with a responsive methodology to avoid any (unanticipated) construction-related vibration at the perimeter of the site (CSA, January, 2016), (b) repavement of the 1925 ECDLL driveway (ABDS, Site Plan, Sheet A0.03, June, 2016) in coordination with the owner of the 1927 ECDLL driveway, and (c) repair and restoration of the construction easement area on 1921 ECDLL, pursuant to the offer of a temporary construction easement by the Trustee of the Luz Trust. The Emprise Trust requests City staff's concurrence with these reasonable mitigation measures.

8. Recommended Measure: RM V-1 Lighting Design, (dfMND electronic page 13/59)

The applicant shall submit a detailed project lighting plan for approval by Single Family

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Design Board as part of the project preliminary and final design review approvals.

8.1. Although the MND indicates that project visual impacts associated with scenic views, visual character, visual quality, grading, topography, lighting, and glare would be less than significant (Class 3), and thereby identifies no nexus or requirement for roughly proportionate mitigation, recommended mitigation measure V-1 would further reduce less-than-significant project impacts associated with lighting. The Emprise Trust requests clarification from the City regarding the CEQA basis for this staff-proposed mitigation.

9. Recommended Measure: RM WQH-1 Water Quality and Hydrology: Drainage and Storm Water Management Facilities and Plans. (dfMND electronic page 49/59)

Final project plans shall incorporate project components for temporary construction erosion and sediment control and water quality facilities and operations, and post-construction permanent drainage and storm water management facilities and operation/maintenance provisions. Approved drainage and storm water facilities and operations/maintenance provisions shall reflect technical study recommendations and be consistent with City policies, ordinances, and guidelines for construction erosion and sediment control, and permanent storm water management addressing water volumes and water quality.

9.1. Although (a) the project description and plans include a comprehensive storm water management program, including during construction and post-construction project operations, that have been designed specifically to address and meet the applicable adopted City and State drainage and water quality protection requirements, (b) the MND identifies no potentially significant adverse effects of the project on drainage and storm water management, or on any other aspect of the environment, and (c) the MND indicates that the project requires no drainage and storm water management facility/plan mitigation measures, the MND nonetheless requires project compliance with a vaguely worded set of drainage water quality requirements that do not provide or reference clear, implementable standards for specific project compliance. The Emprise Trust requests clarification from the City regarding the basis for this staff-proposed mitigation measure or condition.

Thank you.

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